

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ORAL WAYNE BRADY,

Plaintiff,

- against -

ORDER
08-CV-3572 (RRM) (VVP)

NEW YORK POLICE DEPARTMENT, et. al.,

Defendants.
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MAUSKOPF, United States District Judge.

Defendants seek to hold Plaintiff to his oral agreement to settle his civil rights claims for \$4,000, reached at a conference on October 6, 2010 before the Honorable Andrew L. Carter, United States Magistrate Judge. Plaintiff appeared at the settlement conference *pro se*; Defendants appeared through New York City Assistant Corporation Counsel Max McCann. After the conference, Plaintiff received from Defendants a document entitled “Stipulation of Settlement and Order of Dismissal.” Plaintiff then retained counsel.

On November 29, 2010, Plaintiff, through counsel, moved to reopen court-supervised settlement negotiations or, in the alternative, amend the complaint and resume discovery. Plaintiff contends that the oral settlement agreement here is unenforceable. Defendants opposed the motions, and moved to enforce the agreement. On January 5, 2011, Judge Carter issued a Report and Recommendation (“R&R”) finding the oral agreement unenforceable under this Circuit’s four-factor test for enforceability, where Plaintiff, a layperson, entered the agreement *pro se*. *See Winston v. Mediafare Entertainment Corp.*, 777 F.2d 78, 80 (2d Cir. 1985). Judge Carter recommended, therefore, that Defendants’ motion to enforce be denied, and that Plaintiff’s motion to reopen court-supervised settlement negotiations be granted. Judge Carter recommended also that Plaintiff’s motions for leave to amend the complaint and resume discovery be denied with leave to renew if the parties are unable to reach a new settlement agreement. Judge Carter reminded the

parties that, pursuant to Federal Rule of Civil Procedure 72(b), any objection to the R&R was due January 24, 2011. No party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). Accordingly, it is hereby ORDERED that Defendants' motion to enforce the oral settlement agreement be DENIED, Plaintiff's motion to reopen court-supervised settlement discussions be GRANTED, and Plaintiff's motions for leave to amend the complaint and resume discovery be DENIED with leave to renew, and it is FURTHER ORDERED that this matter is immediately re-committed to Magistrate Judge Carter for all pre-trial supervision consistent with this Order and with the procedural posture of this case.

SO ORDERED.

Dated: Brooklyn, New York
February 7, 2011

/S/

ROSLYNN R. MAUSKOPF
United States District Judge